

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL CASE NO. 3:07cr236

UNITED STATES OF AMERICA,

vs.

SIR MARQUIS BATTLE.

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ORDER

THIS MATTER is before the Court *sua sponte* to continue the case.

On October 23, 2007, the Defendant was indicted in a one-count bill of indictment and charged with being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). The Defendant's initial appearance was on November 13, 2007 at which time counsel was appointed. The Defendant's arraignment was on November 16, 2007, at which time his case was placed on the November 27, 2007 calendar for trial.

"Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se." 18 U.S.C. §3161(c)(2). The Defendant here

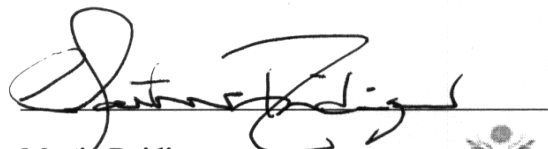
has not so consented and thus, his trial may not start less than thirty days from his appearance with counsel.

In addition, the Court finds that counsel would not have an adequate opportunity to prepare for trial, taking into account the exercise of due diligence. The Court therefore finds that a failure to grant the continuance "would unreasonably deny the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." 18 U.S.C. §3161(h)(8)(B)(iv).

For the reasons stated herein, the ends of justice served by the granting of the continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. §3161(h)(8)(A).

IT IS, THEREFORE, ORDERED that the above-captioned case is **CONTINUED** from the November 27, 2007 term in the Charlotte Division.

Signed: November 17, 2007


Martin Reidinger
United States District Judge

